

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ICU MEDICAL, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-468-JJF
v.	)	
	)	
RYMED TECHNOLOGIES, INC.,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	
	)	

**DECLARATION OF GREG PRATT IN SUPPORT OF PLAINTIFF ICU  
MEDICAL, INC.’S OPPOSITION TO RYMED TECHNOLOGIES, INC.’S MOTION  
FOR REARGUMENT OF MEMORANDUM ORDER DENYING MOTION TO  
TRANSFER VENUE**

I, Greg Pratt, declare:

I am currently Vice President of International Sales and Marketing for ICU Medical, Inc. (“ICU”). I submit this declaration in support of ICU’s Opposition to RyMed Technologies, Inc.’s (“RyMed”) Motion for Reargument of Memorandum Order Denying Motion to Transfer Venue. I have personal knowledge of all the facts contained herein and, if called to testify, could and would competently testify thereto.

1. I have been employed with ICU since December 1996. I became Vice President of International Sales and Marketing in 2003. Prior to 2003, I had previously been a Product Specialist at ICU and the Vice President of Budget Medical Products, an ICU subsidiary.

2. On January 31, 2008, Brent Nibarger, President of Fluidnet Corporation (“Fluidnet”), left me a voicemail inquiring about the pricing of ICU’s Y-site CLAVE product. I did not have any conversations with Mr. Nibarger in January. Indeed, before his voicemail message, I had not had any contact with Mr. Nibarger for probably a year.

3. On February 1, I sent Mr. Nibarger an e-mail indicating that I would return his call after the weekend on February 4. Attached as Exhibit A is a true and correct copy of my February 1 e-mail to Mr. Nibarger.

4. When I returned Mr. Nibarger's call on February 4, he told me that he had previously spoken with Alison Burcar, ICU's Vice President of Marketing, and was interested in using ICU's Y-site CLAVE with a new product offering from Fluidnet. In response, I talked about ICU's success in the market against competitors such as Alaris. Mr. Nibarger mentioned fluid displacement (e.g., positive, neutral, negative), but I said that for the purposes of a Y-site valve, fluid displacement does not matter. Mr. Nibarger then agreed, saying that Ms. Burcar had said the same thing.

5. In my call with Mr. Nibarger, the subject of RyMed and RyMed's products never came up. I did not say that RyMed would be shut down by the FDA soon and we never discussed ICU's litigation against RyMed.

6. At the end of the call, we agreed to schedule a meeting to talk further about ICU's Y-site CLAVE. On February 5, I sent Mr. Nibarger an e-mail saying that I would be available to meet in the February 27th and 28th timeframe. Attached as Exhibit B is a true and correct copy of my February 5 e-mail to Mr. Nibarger.

7. Two days later, Mr. Nibarger responded by e-mail indicating that February 28 and 29 would work for a meeting. Attached as Exhibit C is a true and correct copy of Mr. Nibarger's February 7 e-mail.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on February 24, 2008 in Tokyo, Japan.

Greg Pratt

Greg Pratt

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Kenneth L. Dorsney, hereby certify that on February 25, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on February 25, 2008, the attached document was Electronically Mailed to the following person(s):

Richard D. Kirk  
Stephen B. Brauerman  
The Bayard Firm  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19899  
[rkirk@bayardfirm.com](mailto:rkirk@bayardfirm.com)  
[sbrauerman@bayardfirm.com](mailto:sbrauerman@bayardfirm.com)

Henry C. Bunsow  
K.T. Cherian  
Scott Wales  
Howrey LLP  
525 Market Street, Suite 3600  
San Francisco, CA 94105  
[BunsowH@howrey.com](mailto:BunsowH@howrey.com)  
[cheriank@howrey.com](mailto:cheriank@howrey.com)  
[waless@howrey.com](mailto:waless@howrey.com)

/s/ Kenneth L. Dorsney  
Richard L. Horwitz  
Kenneth L. Dorsney  
Potter Anderson & Corroon LLP  
Hercules Plaza – Sixth Floor  
1313 North Market Street  
Wilmington, DE 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[kdorsney@potteranderson.com](mailto:kdorsney@potteranderson.com)

# **EXHIBIT A**

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**From:** Greg Pratt [GPratt@icumed.com]  
**Sent:** Friday, February 01, 2008 2:17 PM  
**To:** Brent Nibarger

Brent:  
Hope you are well. Received your message and was hoping I could call you on Monday...just got back from Dubai.

Greg

# **EXHIBIT B**

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**From:** Greg Pratt [GPratt@icumed.com]  
**Sent:** Tuesday, February 05, 2008 4:43 PM  
**To:** 'Brent Nibarger'  
**Cc:** Alison Burcar; Rich Costello  
**Subject:** RE:  
**Importance:** High

Brent:

Next week does not look good after all. Alison and I will be in Vegas and then she has to go to Florida for the remainder of Rich's second regional sales meeting. I am going to suggest the week of the 25<sup>th</sup> as I am heading to Tokyo from the 19<sup>th</sup> through the 25<sup>th</sup>.

Are you around on the 27<sup>th</sup>, 28<sup>th</sup> timeframe?

Greg

---

**From:** Brent Nibarger [mailto:[bnibarger@fluidnet.net](mailto:bnibarger@fluidnet.net)]  
**Sent:** Saturday, February 02, 2008 1:40 PM  
**To:** Greg Pratt  
**Subject:** Re:

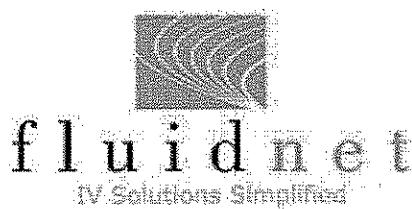
Sure thing

On Feb 1, 2008, at 2:16 PM, Greg Pratt wrote:

Brent:

Hope you are well. Received your message and was hoping I could call you on Monday....just got back from Dubai.

Greg



Brent Nibarger - President  
Fluidnet Corporation

Please International Tradeport  
1 New Hampshire Avenue Suite #125  
Portsmouth NH 03801

603-570-4810 main off  
818-203-8251 cell  
866-429-0978 secure fax

[bnibarger@fluidnet.net](mailto:bnibarger@fluidnet.net)  
[www.fluidnet.net](http://www.fluidnet.net)



# **EXHIBIT C**

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**From:** Brent Nibarger [bnibarger@fluidnet.net]  
**Sent:** Thursday, February 07, 2008 12:48 PM  
**To:** Greg Pratt  
**Subject:** Re: RE:

28 or 29th would be great.

On Feb 5, 2008, at 4:43 PM, Greg Pratt wrote:

Brent:  
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Greg

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**To:** Greg Pratt  
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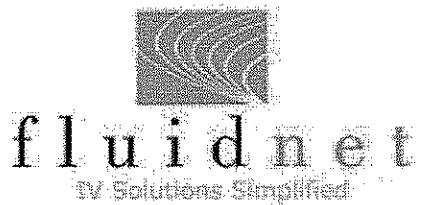
<image001.jpg>

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[www.fluidnet.net](http://www.fluidnet.net)